

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3/20/2021
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GARTH MARCHANT et al.,	:	
	:	
Plaintiffs,	:	
	:	
-against-	:	20-cv-10544 (VEC)
	:	
HONORABLE BILL DE BLASIO, CORY	:	<u>ORDER</u>
JOHNSON, BOARD OF ELECTIONS, and CITY	:	
OF NEW YORK,	:	
	:	
Defendants.	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS at a December 18, 2020, show-cause hearing, the Court denied Plaintiffs' request for a preliminary injunction and set a briefing schedule for Defendants' motion to dismiss, pursuant to which Defendants' motion was due February 5, 2021, Plaintiffs' response March 5, 2021, and Defendants' reply March 19, 2021 (Dkt. 8);

WHEREAS Defendants filed their motion to dismiss on February 5, 2021 (Dkt. 9);

WHEREAS according to ECF, Mr. Neil Grimaldi, who appears as counsel of record for Plaintiffs on ECF, received an email on February 5, 2021, notifying him of Defendants' filing of their motion to dismiss;

WHEREAS on March 5, 2021, the day on which Plaintiffs' response was due, Defendants' counsel rebuffed Mr. Grimaldi's attempt to serve Plaintiffs' response on Defendants via fax;

WHEREAS on that same date, the Court instructed Mr. Grimaldi to file Plaintiffs' response on the public docket via ECF;

WHEREAS the Court received Plaintiffs' response by mail several days after the March 5, 2021 deadline (Dkt. 11);

WHEREAS on March 18, 2021, the Court received an email from Mr. Grimaldi, attesting that he has been unable to access PACER or ECF and requesting an additional three weeks to amend Plaintiffs' response to the motion to dismiss due to, *inter alia*, delays occasioned by his campaign for Office of the Mayor of New York City and the fact that he has not seen Defendants' motion to dismiss or any other documents in this action; and

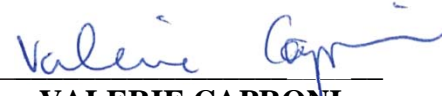
WHEREAS on March 19, 2021, Defendants filed a reply in further support of their motion to dismiss, requesting that the Court strike Plaintiffs' response in opposition to the motion to dismiss due to its delinquency and grant the motion to dismiss on default, or at least deem Plaintiffs' claims abandoned on account of their failure to address any of Defendants' arguments set forth in their motion to dismiss (Dkt. 12);

IT IS HEREBY ORDERED that Plaintiffs' request for an extension to amend their response in opposition to Defendants' motion to dismiss is DENIED. The Court will treat Defendants' motion as fully briefed as of March 19, 2021, and will decide the motion on the basis of the parties' submissions as of that date. Mr. Grimaldi has been aware of the briefing schedule for Defendants' motion to dismiss since the show-cause hearing on December 18, 2020. The Court has also repeatedly instructed Mr. Grimaldi to register as a user on the ECF system and to file documents on the public, electronic docket. To the extent Mr. Grimaldi was having difficulty accessing any papers in this action, including Defendants' motion to dismiss, he was obligated to attempt to rectify the situation at the time the issue arose, not two weeks after Plaintiffs' response to the motion to dismiss was due. Further, as a member of the bar, Mr. Grimaldi has an obligation to put his clients' interests first. If he is unable to manage this action

in addition to his own political ambitions, he must either seek to be relieved as counsel or obtain assistance in litigating this case.

**SO ORDERED.**

**Date: March 20, 2021**  
**New York, New York**

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**VALERIE CAPRONI**  
**United States District Judge**